

GENDER RELATIONSHIPS AND LEGAL CHANGE IN SYRIA. THE FAMILY LAW REFORMS OF THE ROJAVA REVOLUTION

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SUMMARY: 1. Introduction – 2. Research question and methodology – 3. The Syrian legal tradition – 4. Family law and pluralism in Syria – 5. The ARs' Social Contracts in 2014, 2016 and 2023 – 6. ARs' 2014 "Women's Law" and the 2016 DFSN's Criminal Code reform – 7. Implementation of the provisions – 8. Conclusions.

1. Introduction

The violence affecting Syria since 2011 has led to a loss of effective sovereignty of the Syrian state over swaths of its territory, with varying extents in space and time. In some cases, the establishment of *de facto* institutions has been imposed by armed movements with an Islamist orientation. A re-Islamization of norms regulating several areas of associated life has followed¹. This concerns regions controlled by the Interim Government in Syria (SIG), declared by the Syrian National Coalition (SNC) in 2013 and protected by the Syrian National Army (SNA) since 2018, and by the Salvation Government (SG) declared by a network of groups formed by the Syrian branch of the international militant Salafi network known as Al-Qaeda (*Hay'at Tahrir al-Shām*, HTS) in 2017². It was also the case, with much greater clamour and over

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1. L. Al-Shami, R. Yassin-Kassab, *Burning Country. Syrians in Revolution and War*, Pluto Press 2016, pp. 108 ff.

2. I. Álvarez-Ossorio, *Le Conseil national syrien: Genèse, développement et défis*, in *Maghreb-Machrek*, vol. 3, p. 51, 2012; S. Heller, *The Strategic Logic of Hayat Tahrir al-Sham*, in *Perspectives on Terrorism*, vol. 11, n. 6, 2017.

a wider territory, of the so-called Islamic State (IS), which proclaimed itself as “caliphate” in 2014³ and has been able to exercise effective control over part of the Syrian territory until March 2019.

A fourth de facto institution emerged during the war has promoted, nevertheless, opposed policies. The Autonomous Regions (ARs) proclaimed their autonomy in 2014 in the Kurdish-majority areas (Rojava) bordering the Turkish border in the north. The leading organs of the ARs enacted a fundamental charter, the Social Contract of the Autonomous Regions (SC-AR) incorporating most of principles consistent with the rule of law and all international treaties on human rights. The ARs were formed by the Movement of the Democratic Society (TEV-DEM) created in 2011 under the leadership of the Kurdish Democratic Union Party (PYD)⁴.

In the following years, the armed wings of the PYD (the Women’s and People’s protection units: YPJ and YPG) waged a war against IS in alliance with the International Coalition against Daesh (IC) promoted by the USA⁵. The YPG-YPJ promoted in 2015 with Arab and Assyrian units the Syrian democratic forces (SDF), while the TEV-DEM instituted the Syrian democratic congress (SDC) transforming the ARs into the Democratic Federation of Northern Syria (DFNS) in 2016, the Autonomous Democratic Administration of North and East Syria (AANES) in 2018 and the Autonomous Democratic Administration of North and East Syria (ADANES) in 2023. This coincided with the extension of the self-government process to Arab-majority territories⁶. The new institutions approved a new Social Contract of the Democratic Federation (SC-DF) in 2016, a Memorandum of Agreement of the Autonomous Administration in 2019, and a third Social Contract for the Democratic Administration (SC-DA) in 2023⁷.

3. P.-J. Luizard, *Le piège Daech: L’Etat islamique ou le retour de l’Histoire*, La Découverte 2015; M. Revkin, *The Legal Foundations of the Islamic State*, in *The Brookings Project on U.S. Relations with the Islamic World*, 2016, p. 23.

4. E. Ayboga, A. Flach, M. Knapp, *Revolution in Rojava: Frauenbewegung und Kommunalismus zwischen Krieg und Embargo*, Vsa Verlag 2016, trans. by J. Biehl, forw. by D. Graeber, *Revolution in Rojava. Democratic Autonomy and Women’s Liberation in Syrian Kurdistan*, Pluto Press 2016, pp. 47-121.

5. H. Cudi, U.S. YPG Fighter, *Interview*, Qamishlo, April 2016.

6. D. Grasso, *Il fiore del deserto. La rivoluzione delle donne e delle comuni tra l’Iraq e la Siria del nord*, Agenzia X, 2018; H. Allsopp, W. Van Wilgenburg, *The Kurds of Northern Syria. Governance, Diversity and Conflicts*, Tauris, 2019.

7. MD-FDRBS (Meclisa Damezrîner a Federaliya Demokratîk a Rojava-Bakurê Sûriyê), *Reşnivîsa Hevpeymanî Civakî ya Federaliya Demokratîk a Bakurê Sûriyeyê*, 2016, eng. transl.: *The Constituent Assembly of the Democratic Federalism of*

Today ADANES controls areas rich in water, agricultural, and energy resources in the governorates of Aleppo, Ar-Raqqa, Al-Hasakah, and Deir el-Zor, attracting the attention of scholars and the media due to the political centrality assigned to women at the ideological, institutional, and political-organizational levels⁸. Women's self-government civil units (the Women's Communes and the Women's Houses) are coordinated in the Kongra Star⁹. The YPJ flank the YPG as an autonomous women's army within the SDF. What has not yet been sufficiently emphasized is that such a military and political centrality of women has spilled over onto the legislative level¹⁰.

In 2014, the ARs promulgated the Fundamental Principles and General Provisions for Women (GPW): a piece of legislation that overturns state Family law and local customs, setting itself in open opposition to the transformations carried out on the same subject by the SIG, the SG and IS. In 2016 the DFNS produced significant amendments to the sections of the Syrian Criminal Code regarding «Family and Public Morals» (CC-A). With the aim to produce a detailed codification of the Principles' dictate, amendments to the GPW (GPW-A) have been under discussion at the AANES' Legislative Council since 2021.

Northern Syria, Social Contract of the Democratic Federalism of Northern Syria (SC-DF), 2016; available at: bit.ly/3BUSwFC (accessed February 7th, 2024); GC-AANES (General Council of the Autonomous Administration of North-Eastern Syria), *Document of Understanding*, Unreleased Document, June 22nd, 2019; MG-RXDBRS (Meclisa Giştî ya Rêveberiya Xweseriya Demokratîk a Bakur û Rojhilatê Sûriyê), *Hevpeymanîya Civakî ya Rêveberiya Xweseriya Demokratîk a Bakur û Rojhilatê Sûriyê*, December 12th, 2023, engl. transl.: *Social Contract of the Autonomous Democratic Administration of North and East Syria (SC-DA)*, December 14th, 2023, available at: shorturl.at/jtyX0 (accessed February 7th, 2024); see also Rojava Information Center, *AANES Social Contract*, 2023 Edition, available at: shorturl.at/jtyX0 (accessed February 7th, 2024).

8. C. Cemgil, C. Hoffmann, *The "Rojava Revolution" in Syrian Kurdistan: A Model of Development for the Middle East?*, in *IDS Bulletin*, vol. 47, n. 3, pp. 53-76, 2016; T. Schmidinger, *Rojava. Revolution, War, and the Future of Syria's Kurds*, Pluto Press, 2018; A. Shahvisi, *Beyond orientalism: exploring the distinctive feminism of democratic confederalism in Rojava*, *Geopolitics*, 2018.

9. Kongra Star, Charter Preparation Committee, *Kongra Star Charter*, August 25, 2020, available at: bit.ly/3rRuZ45 (accessed February 7th, 2024).

10. R. Mendanlioglu, *Geschichte und Gegenwart der "Frauenrevolution" in Rojava*, in *Work in Progress. Work on Progress. Doktorand*innen-Jahrbuch 2020 der Rosa-Luxemburg-Stiftung*, Herausgegeben von Marcus Hawel, 2020.

2. Research question and methodology

The purpose of this contribution is to analyze the GPW by placing them in the Syrian legal framework and tradition, taking into account also two subsequent legal texts that have been discussed, drafted and/or approved in the ARs. The research questions are thus the following: which are the juristic features of these legal texts? What the historical and political context of their production? To achieve this, in the first part of the essay I will introduce the Syrian legal system of Personal Status, placing it in its historical and juristic context. In the second part, I will analyze the provisions relevant for Family law and Personal Status matters enacted by the various institutions declared by the TEV-DEM and the Kongra Star in the North-East. In the third part, I discuss the application of the new norms outlining the social, political and geopolitical implications of it. The following information is based on the relevant legal texts, the scholarly literature and the author's fieldwork between 2016 and 2017. Among the sources are interviews conducted by the author between 2021 and 2022 with women and men speaking on behalf of the AANES, the Kurdish Movement and the Kongra star in Syria and Europe.

The methodology includes desk research on historical and legal sources and legal textbook examination of legal documents collected during the fieldwork or online. The fieldwork was conducted through nine months of participant observation when, between 2016 and 2017, the author has cooperated with DFNS institutions in Syria. During this period, 10 interviews relevant to this study, conducted with 6 women and 4 men aged between 18 and 54, were collected. They were relevant for reconstructing the institutional, social and ideological context of the confederal revolution, described in more detail elsewhere¹¹. Between 2021 and 2022, two more interviews were conducted online with women (one Kongra Star representative and the co-chair of the AANES Legislative Council). They made it possible to reconstruct the sociological and historical context of the preparation and promulgation of the laws here analyzed. The interviews were semi-structured in nature and were not aimed at the

11. D. Grasso, *Autorité/avant-garde/autogestion: une tension incomprise dans la révolution confédérale*, in P. Crétois, Pierre, É. Jourdain, *La démocratie sous les bombes. Syrie-Le Rojava entre idéalisation et répression*, Le Bord de l'Eau, 2022; Id., *The People's Communes in Rojava and North-Eastern Syria. Characters, Evolution and Contradictions of an Institution of Self-Government*, in *Études Kurdes*, vol. 15, 2022.

personal path of the interviewed, rather at the recent history of the ARs and the legal, social and political context surrounding the new institutions.

Limitations of the research may result, in the first place, from the fragmentation of the resources available to some of the interviewees regarding the subject matter. This fragmentariness is due to a conflictual and dynamic institutional scenario, in which the condition of war, social conflict and embargo affecting north-eastern Syria since 2012 can make it difficult to identify, in all instances, the decisive sources of law on a certain portion of the territory and in any given phase (even for the protagonists and the dwellers themselves). Another limitation is the present nature of the conflict, where officials or militants of the confederal institutions may have reasons to omit elements of interest for the investigation.

The researcher defined the ethical profile of his investigation with the interviewees and attempted to define with them his position as a non Syrian and non Kurdish political activist and scientific researcher, interested in producing reports from the field, on one side, and an academic spin-off of the knowledge acquired in the course of his institutional as well as research activity in the region. Sensitive information, the disclosure of which could damage individuals involved in this research, has not been included in the contribution.

3. The Syrian legal tradition

The legal framework concerning the regulation of gender relations in the family realm was established by the Syrian Arab Republic primarily in the 1953 Law of Personal Status (LPS), amended in 1975, 2003, 2006, 2010 and 2019. The enactment of the LPS constituted, in 1953, both an intervention carrying a transformative impact, and a compromise with a time honored legal tradition. The region had been, until World War I, part of an empire that used to adopt predominantly the Hanafi school of Fiqh for the interpretation of Sharia. During the 19th century the empire undertook a policy of reforms aimed at strengthening the authority of the state. This should have been attained through new legal tools of European derivation, including gradual codification of Islamic legal tenets. Sharia is a written corpus, but it is not organized in the textual fashion labeled as “code” in the Roman and modern European traditions. Codifying Sharia meant therefore rewriting it, modifying its textual form and, consequently, changing the letter of a divine dictate.

This can be seen as opening a space for human intervention in the realm of a supernatural power¹².

Initiating such an unprecedented process were the Ottoman Tanzimat reforms in the Nineteenth century, including the 1856 Imperial Reform Edict (*Islâhat Hatt-ı Hümayûnu*). The latter had particular significance in family and inheritance matters as it dictated equality before the law for all subjects, independently from their creed. The codes on criminal (*Ceza Kanunname-i Hümayûnu*, 1858) and civil law (*Mecelle-'i Ahkâm-ı Adliye*, 1877) followed¹³. These provisions caused a partial departure from the principle, derived from Quranic revelation, of regulating family relations according to classifications of individual and social postures towards the divine. The Quranic classification orders faiths by degrees of dignity and mandates consequent criteria of tolerance by the Islamic power. Non Muslims were previously given the opportunity to have their lives saved, or avoid slavery, through conversion. Jews and Christians were the exception: as “people of the book” (*Ahl al-Kitâb*) they were granted the privilege of entering into a collective contract with the established authority. In exchange for the payment of a tax they would obtain protection by acquiring the status of *dhimmi*. With this premise, the law allowed Jews and Christians to organize their families and inheritance relations under different laws, i.e. independently from Islamic dictates. This included the establishment of autonomous legislative as well as judicial authorities. In the remaining public legal space they were subject to Sharia. There were also other restrictions for the *dhimmis*, concerning dietary customs and publicity of worship¹⁴.

In 1876, under the influence of the European model of legal change, the Sultan abolished the *dhimmi* status, proclaiming all its subjects citizens of the empire. This was a major break with the Quranic tradition, introduced by the most powerful Muslim authority in the world. In 1917, under the influence of domestic revolutionary and secular impulses, a single court for family and inheritance matters was established, replacing the separate Muslim, Christian and Jewish courts. However, this reform lasted two years. After the conquest

12. See T. Koch, *Islamic Law: Ordained Shari'ah Principles v. Man-Made Code*, UWTSO, 2017.

13. T. Heinzelmann, *The ruler's monologue: The rhetoric of the Ottoman penal code of 1858*, in *Die Welt des Islams*, n. 54, pp. 3-4, 2014; B. Abu-Manneh, *Two Concepts of State in the Tanzimat Period: the Hatt-ı Şerif of Gülhane and the Hatt-ı Hümayun*, in *Turkish Historical Review*, n. 6, p. 2, 2015.

14. R. Aluffi Beck Peccoz, *Şaria*, in *Enciclopedia del Diritto*, Annali VIII, Giuffrè 2015.

and dismembering of the Empire following World War I, the French Mandate installed an ephemeral Arab monarchy in the new territory called Syria, roughly corresponding to the later independent lands. King Faysal reinstated the Hatt-ı Hümayûnu in 1919, reintroducing separate courts for Christians and Jews. However, the Mandate soon put an end to the monarchy and, in 1930, promulgated a constitution declaring, similarly to the Lebanese fundamental law, religious freedom as «absolute». In 1936 the Mandate authorities had to abort, due to strong popular opposition, an attempt to enforce a decree that, while maintaining the autonomy granted in matters of Personal Status to Christians and Jews, eliminated the religious foundations of the ancient status of *dhimmi*. The tentative provision would have actually declared, differently from the 1917 law, the three religious jurisdictions (including the Islamic) as of equal legal dignity.

World War II led to the formal independence of the Syrian Arab Republic in 1941, which was followed by the effective withdrawal of French troops in 1946. Between World War I and the aftermath of World War II, most of Arab populations, with the exception of the Palestinians, gained independence. The new constitutions of most of these states declared Islam the «state religion» and Sharia «the» or «a» source of law (sometimes qualified as the «principal» or «main» source). By contrast, the Syrian constitutions of 1950, 1953, 1964, 1973 and 2012 (still in force) merely declare Islam «the religion of the President of the Republic». This was a rather unique solution in the Arab world. Only exception in Syrian history was the 1958 constitution, which – establishing the United Arab Republic (UAR) and the state unification with Egypt – made no mention of Islam whatsoever. In the Syrian constitutions of 1973 (Art. 3) and 2012 (Art. 3), Fiqh is declared «one of the main sources» of law: not Sharia, rather its human interpretation and study is therefore mentioned.

Explicit references to Islam in many Arab constitutional laws often served to legitimize or cover, in post-World War II anti-colonial times, an effective secularizing action of the legal systems by the newly independent authorities. This occurred through textual reformulation and formalization, as well as through substantial provisional change in the process. Syria undertook extensive codification of public, private and procedural law. Such reformulations had much more impact on the legal system than previous Ottoman reformulations. They were largely inspired by European legal solutions (French, Italian, German and Swiss). Such solutions were iterated in most of the Arab world, including Syria, through the mediation of Egyptian codifications in civil matters.

In the Syrian case, the Lebanese codification was influential in criminal matters. The Civil Code and the Criminal Code were promulgated in 1949 and are still in force today.

The former affirms, at Art. 1, the centrality of Sharia as a general guide for all matters not expressly regulated by the Code. The second contains a Memorandum clarifying that the Ottoman Qanun regulating criminal matters since 1858 (which had already abolished specific Quranic punishments) was «no longer appropriate to accommodate the development of social, economic, commercial and intellectual life in Syria»¹⁵. The concept of apostasy, for example, does not appear in the post-independence Syrian legal system; flogging is no longer provided for and theft is not punished by amputation of a limb, rather by imprisonment. Many of the punishments that in the tradition of Sharia are left to the judge's discretion have been regulated by written norms.

4. Family law and pluralism in Syria

In 1953, the Republic turned to regulating family and inheritance law. The new Law of Personal Status (still in force today) was to replace the Ottoman regulations rehabilitated by King Faysal and the subsequent French provisions. A government commission was assembled for this purpose. It consisted of Muslim jurists, civil lawyers and political representatives. The sources from which they drew were:

- The Hatt-ı Hümayûnu;
- A draft code drawn up by the Egyptian jurist Qudri Pasha;
- Egyptian laws from 1920-1946;
- A treatise on Personal Status drafted by the Damascene judge Ali Al-Tantawi, which drew legal solutions from all four Islamic schools;
- A selection of solutions characteristic of the Hanafi school.

The LPS was drafted in 308 articles. Islamic law is therein declared «predominant». In the last three articles, legislative and judicial autonomy is provided for specific communities: the Christians, the Jews and the Druze¹⁶. The judicial and legislative autonomies, contrary to

15. R.A. Diab Esq, *Religion and the Law in Syria*, in *Arab Center for International Humanitarian Law and Human Rights Education*, 2010, available at: bit.ly/3iRURIE (accessed February 7th, 2024).

16. A. Rabo, *Family Law in Multicultural and Multireligious Syria*, in G. Collste

what had been the case til then, applied to the LPS only in matters of marriage, divorce or parental custody (the so-called “pure family law”¹⁷) and excluded the discipline of inheritance. This was a further breach with the Islamic legal tradition. Succession is regulated in the main body of the text, based on Sharia, which therefore applies also to non-Muslims. As a result, and following the authorities’ political aim, legal uniformity is ever since greater. This notwithstanding, the larger uniformity does not entail a civilistic logic, rather a religious one. This at least in Personal Status matters, contrary to what happens in all other realms of law in the Syrian system¹⁸.

Peculiar is the inclusion of the Druze, a Muslim religious minority, among religious groups deserving legal autonomy in Personal Status matters. The Druzes entered in 1953 the sphere of Personal Status autonomy according to a novel logic, totally unrelated to Quranic precepts. The Druze are one of the country’s non-Sunni Muslim communities. They experience since then the contradiction of being defined as a *madhab* (legal school) in the general legislation (Code of Judicial Authority, Art. 36), and a *tawaif* (religious denomination or sect) in the LPS¹⁹. On the other hand, the other non-Sunni Muslim communities (Twelver Shiite, Ismailites and Alawites, constituting with the Druzes about 16% of the population) are not recognized legal autonomy in family matters²⁰. In principle, they have to comply with the Sunni conception of the general Sharia dictate of the LPS. This is true also for the Yazidis, a Syrian religious community which does not perceive itself as part of any testamentary tradition²¹. This is true for

(ed.), *Possibilities of Religious Pluralism*, Linköping University Electronic Press, 2005, pp. 71-87.

17. R. Aluffi Beck Peccoz, *Islamic Law. Marriage*, in *Routledge Handbook of Religious Laws*, Routledge 2019.

18. J.N.D. Anderson, *The Syrian Law of Personal Status*, in *Bulletin of the School of Oriental and African Studies*, University of London, Cambridge University Press on behalf of School of Oriental and African Studies, 17: 1, 1955, pp. 34-49.

19. M.S. Berger, *The Legal System of Family Law in Syria*, in *Bulletin d’études orientales*, Institut Français du Proche-Orient, 49, 1997, pp. 115-127.

20. J.N.D. Anderson, *The Syrian Law of Personal Status*, cit., p. 49; R. Maktabi, *Gender, family law and citizenship in Syria*, in *Citizenship Studies*, vol. 14, n. 5, 2010, pp. 559-561; see also Id., *Female Citizenship under Authoritarian Rule in the Middle East: Ba’thist Syria and Beyond*, in *The Middle East Book Review*, n. 9, 2018, pp. 157-175.

21. A. Ventura, *Confessioni scismatiche, eterodosse e nuove confessioni sorte nell’Islam*, in G. Filoramo, (ed.), *Islam*, Laterza, 1999; D. Grasso, *Il fiore del deserto*, cit., pp. 109-118; R. Beritan, C. Cruciati, *La montagna sola. Gli ezidi e l’autonomia democratica di Sengal*, Alegre 2022.

Syrian non-believers as well, whose existence isn't acknowledged by the state's legal system²². Every citizen must be inscribed in the national registers according to a religious affiliation: Islamic, Christian, Druze or Jewish. This affiliation becomes all the more decisive when the state intervenes to regulate family life²³.

For these reasons, the LPS differs from the rest of the body of law. The Syrian main legislation does not distinguish between citizens on the basis of religion²⁴. It is true that, by constitution, the republic places the interpretation of one religious dictate – the Islamic – among the sources of law. It is also true, on the other hand, that it does not consider it «the sole» source of law, as it happens in other countries. The mention of religious communities has been expunged from the constitutional dictate since 1973. It was the early stages of Assad family's hegemony in the Baath Party, the latter ruling since 1963. Hafez Al-Assad's supporters had staged a so-called "Corrective Revolution" to improve through "moderation" what had been achieved through the previous phase of Baathism.

Notwithstanding the constitutional change following this turn, the legal pluralism entailed in the LPS still sanctioned believers of different religions as subjected to different laws²⁵. Not all of them, moreover, were entitled to detach themselves from the hegemonic Sunni, Hanafi legislation. The LPS is in fact a legal body distinct from the Civil Code, which, moreover, regulates economic matters that may be relevant in the consequences of marriage. This creates sometimes tortuous judicial paths. There is anyway no room, in the Syrian legal system, for civil marriage, civil divorce or civil succession law²⁶.

On the judicial level, the General Section of the LPS provides for the jurisdiction of Sharia Courts which, in the post-independence legal system, survive exclusively in this context. According to the dictate of the last three articles, the autonomous Druze courts (Madhabi Courts) must be formed by judges appointed by the communities after consultation with the Ministry of Justice. The latter, instead, merely takes note of the appointments of Christian and Jewish judges (Ruhi Courts) by the

22. R. Maktabi, *Gender, family law and citizenship in Syria*, in *Citizenship Studies*, vol. 14, n. 5, n. 5, 2010, p. 560.

23. E. van Eijk, *Pluralistic Family Law in Syria: Blane or Blessing?*, in *Electronic Journal of Islamic and Middle Eastern Law*, n. 2, 2014, pp. 73-74.

24. M.S. Berger, *The Legal System of Family Law in Syria*, cit. pp. 115-118.

25. *Ibidem*.

26. R. Maktabi, *Gender, family law and citizenship in Syria*, cit., pp. 559-560.

respective communities. The Christian courts are multiple due to the variety of the country's Christian communities:

1. Greek Orthodox Church
2. Armenian Orthodox Church
3. Syrian Orthodox Church
4. Evangelical Church
5. Catholic Churches
 - a. Roman
 - b. Latin
 - c. Armenian
 - d. Chaldean
 - e. Syrian
 - f. Maronite

The main differences in legislation concern, for the Druze, the prohibition of polygamy, plus different solutions concerning dowry, divorce, adultery and *li'an*. Christians have their own rules on betrothal, marriage, counter-dowry, alimony and children custody. Contrary to what was the case under the Sultanate and the French Mandate, two matters previously mandated to autonomous legislations by communities must conform to Sharia, as stated earlier, as informing the general section of the LPS: these are key issues such as parental authority (*wilāya* or guardianship: to be distinguished from custody) and the definition of kinship relations and the inheritance discipline. These matters are consequently taken, even for Druze, Jews and Christians, before Sharia courts.

The persistent protests of Christian communities against this situation led, in 2006, to the promulgation of amendments to the LPS. Such amendments have been drafted by Archbishop Antun Mosleh, delegated to this task by the Syrian Council of Catholic Churches. The amended code grants more autonomy to Catholic Christians in regulating succession law. Since 2006, the inheritance of Catholic women is equal to that of men (following Sharia, and therefore the general section of the LPS, daughters get half). Another novelty is the equality of Catholic spouses in matters of parental custody. Contrary to the dictate of the LPS, in the event of divorce, the woman may keep with her the property she brought into marriage and that which is the fruit of her labour during the marriage. The amendments, however, raised protests from other Christian communities, who accused the government of discrimination between Christian denominations.

5. The ARs' Social Contracts in 2014, 2016 and 2023

The efforts to reform family law promoted by women's associations, lawyers or legal experts before 2011 focused on the need to strengthen the bargaining power of women within the couple. To this end, they mostly focused on reference to Islamic norms and on interpretations of Quran and Sunna that be more favorable to the women's role in the family. Above all, the struggles were directed against the use of customary practices invalidating women's rights that are guaranteed by Sharia. Mandatory registration of marriages has therefore been at the heart of these battles. Civil rights and international law enforcement groups, social and legal workers taking in Syrian courts cases on divorce, custody and alimony joined these efforts. They achieved, however, little result. In 2009 a broad mobilization of women's associations had rather to abort a government attempt to reform the LPS in a conservative direction. Feminists blogs and groups exposed passages of a leaked draft law displaying a jargon linked to Salafi understandings of Islamic dictates²⁷.

The entire framework of the LPS would have been suspended or supplemented in various Syrian territories after the outbreak of the civil war in 2012. Multiple de facto institutions and powers did arise in the country since then. The legal reformulation of family life and generational or gender relations has been at the heart of political battles between the Baath party and opposition forces during the war, and between opposition forces themselves²⁸. Family law carries worldwide indeed, and in the Islamic world specifically, an accentuated symbolic, political and social significance²⁹.

Historically, Personal Status regulations have been classified by colonial and early anti-colonial powers as the legal realm in which the divine derivation of law had to be recognized (insofar as there

27. R. Maktabi, *Female Citizenship in Syria. Framing the 2009 Controversy over Personal Status Law*, in R. Hinnebusch, T. Zintl (eds.), *Syria from Reform to Revolt: Political Economy and International Relations*, University of Syracuse Press 2015.

28. O. Szekely, *Fighting about Women: Ideologies of Gender in the Syrian Civil War*, in *Journal of Global Security Studies*, vol. 5, n. 3, 2020.

29. G. Tabet, *Women in Personal Status Laws: Iraq, Jordan, Lebanon, Palestine, Syria*, in *SHS Papers in Women's Studies / Gender Research*, July 4, 2005; R. Maktabi, *Female citizenship in the Middle East: Comparing family law reform in Morocco, Egypt, Syria and Lebanon*, in *Middle East Law and Governance*, 3, 2013, pp. 280-307; *Id.*, L. Brynjar, *Middle Eastern Patriarchy in Transition*, in *Die Welt des Islams*, 3-4, 2017, pp. 265-277.

confined)³⁰. As Rania Maktabi has pointed out, Syrian conservative preachers have initiated in the last decades a struggle advocating for the strengthening or protection of the religious character of rules regulating the assumed “private sphere” of associated life – i.e. family relations. Sharia tenets concerning Personal Status are conceived by them as «the last bastion of sacred law»³¹.

The struggle for reform of family law, whether in secular or conservative directions, is therefore perceived as crucial by all actors in the Syrian War³². Islamist opposition movements to the Syrian regime have hastened, after taking territorial control since 2012, to establish Sharia courts.

In the Autonomous Regions controlled by the Kongra Star and the TEV-DEM, instead, a new fundamental law called Social Contract (SC-AR) was promulgated in 2014³³. It devoted ample space to the enunciation of women’s rights, explicitly sanctioning (in contrast to the LPS) the end of centrality of Sharia dictates in inheritance and family law matters. A «transitional phase» was declared to take place under provisional institutions, aimed at moving society away «from dictatorship, civil war and destruction» in the direction of a «democratic society» (Preamble).

Following the SC-AR, the transitional phase ought to be aimed at building a society that is «free [...] from the intervention of religious authorities in the public sphere». According to Art. 92 «religion and the state» must be «separate». The right to the expression of religious beliefs is guaranteed «without limits, insofar as it does not adversely affect the general system». Art. 93 states: «authorities that contradict this Charter bear no legitimacy». In the General Principles (Title I), Art. 6-12 state that individuals as well as communities (including religious communities) are equal before the law. This contradicts the core of Art. 306 of the LPS, providing for the supremacy of Islam. Titles II and III (Fundamental Principles, Rights and Freedoms) enshrine the accession to all international human rights treaties and conventions (Art. 20-21). Independent Syria had acceded to several conventions on human, women’s and children’s rights, but mostly with reservations. In line with

30. A. Gambaro, R. Sacco, *Sistemi giuridici comparati*, Utet, 1996, p. 340; R. Sacco (ed.), *Il diritto africano*, Utet, 1995, pp. 128-129.

31. R. Maktabi, *Gender, family law and citizenship in Syria*, cit., p. 561.

32. O. Szekely, *Fighting about Women*, cit., pp. 408-410.

33. M. Bianchi, *Sulla soggettività internazionale: il caso Rojava. Spazi grigi per la regione a maggioranza curda nel nord della Siria*, Ph.D. Thesis, Università degli studi di Pisa, 2016.

the Syrian constitution, the SC-AR affirms «the inviolable right of women to participate in political, social, economic and cultural life», adding that the duty of the new institutions is to ensure «the effective realization of women's equality and an end to gender discrimination» (Art. 27-28).

A new Social Contract (SC-DF) was approved by the SDC between July and December 2016, following the DFSN declaration of democratic autonomy in March³⁴. The Preamble states that «all segments of the population, and in particular women and youth, will form their own democratic organizations and institutions». At Art. 2 the entire «system» is said to be based on «women's freedom». Therefore «exploitation, monopoly and reification» of women are outlawed (Art. 11). Art. 12 states that the system «adopts [male-female] co-presidency in all political, social, administrative fields» and considers «equal gender representation» as a fundamental principle. Women's freedom and rights, and gender equality, must be «guaranteed» in society and women must be enabled to exercise «a free will in a democratic family» (Art. 13-14). Art. 25-26 state that «no violence, manipulation or discrimination against women» is permitted. Women have the right to «make decisions on matters that concern them» (*Ibidem*). Art. 68 of the SC-DF provides indeed for «the existence of autonomous women's organizations and the equal representation of women». These are also defined as «the basis» in the field of justice. Decisions concerning women – the same article states – must be taken «by a women's justice system» that the Kongra Star is entitled to institute.

The SDC promulgated a third Social Contract (SC-DA), the most recent, on December 12th, 2023, after years of difficult mediation between the now numerous communities involved over a vast territory. The name of AANES was changed again to the Autonomous Democratic Administration of North and East Syria (ADANES). All women's rights and the prerogatives of women's autonomous institutions contained in the SC-DF were confirmed in Art. 19, 24, 25, 50, 51, 102, 103, 108, 111, 112, 119. There are, however, some innovations. In the Preamble, women are defined as «a pillar of the democratic system». Art. 14 provides for the elimination of the «exploitation of women» through the

34. Meclisa Damezrîner a Federaliya Demokratîk a Rojava-Bakurê Sûriyê, *Reşnivîsa Hevpeymanî Cîvîkî ya Federaliya Demokratîk a Bakurê Sûriyeyê*, 2016; eng. transl. The Constituent Assembly of the Democratic Federalism of Northern Syria, *Social Contract of the Democratic Federalism of Northern Syria*, (SC-DF), 2016; available at: bit.ly/3BUSwFC (accessed February 7th, 2024); see S. Marinelli, *The 2016 Rojava Social Contract: a Democratic Experiment of Civil and Social Rights in Northern Syria*, International Law Blog, October 24, 2016.

development of a «communal economy». The percentage of women's representation in all councils is raised to 50 per cent (Art. 78). The institutional organization of women's political and judicial action is also defined in greater detail. In the fourth section, a «Women's Council» is established to «represent» women (Art. 110, Para. 1), «make[s] decisions about women» (Para. 2), «organize[s] laws related to women and the family» (Para. 6), «work[s] to educate and organize women» (Para. 7) and, interestingly, «to formulate a Social Contract for women» (Para. 9). An elaborate judicial system managed and run solely by women, aimed at regulating family law and adjudicating on women's affairs («decisions concerning women», Art. 115, Para. 7) is prescribed in Art. 115-117.

6. ARs' 2014 "Women's Law" and the 2016 DFSN's Criminal Code reform

On 22 October 2014, the president of the Women's Body in the Executive Council of the AR's Cizire Autonomous Region, Amina Omar, promulgated a law titled *Basic Principles and General Provisions Concerning Women* (hereinafter GPW). The text, published without much international notice during the YPG-YPJ's resistance against IS in the Autonomous Region of Kobane, is commonly referred to, locally, as «the Women's Law»³⁵. It is constituted by a set of norms enunciated in a declamatory style and through an inaugural tone. The prescriptions were enacted by the legislative institutions established by the SC-AR on the basis of a text drafted by a women-only Commission previously appointed by the Kongra Star³⁶. Due to the reluctance of many representatives of the gender-mixed Legislative Council of Cizire to approve the revolutionary provisions, the women's organizations of the confederal movement declared that they were ready to implement and defend the provisions autonomously, considering that they had their own independent army (the YPJ) and police (the Asaysha Jin)³⁷.

35. Rêveberiya Xwesriya Demoqratik Li kantona Cizîrê Rojava – sûrî, Encûmena Cîbicîker – Desteya Jin, 2014, *Rêgezên bingehîn û ferweriyên (bukmên) giştî yên Taybet bi jinê ve*, Jimar 9, 22/10/2014; Minister of Women Body, Administration of the Democratic Autonomy, *Basic Principles and General Provisions for Women*, (GPW), 9, October 22, 2014; available at: bit.ly/3BQZXxj (accessed February 7th, 2024).

36. A. Pasha, Member of the Justice Council of the Cizire Region, AANES, *Interview*, Online, June 2021.

37. H. Sozdar, Unit Commander of the YPJ, *Personal conversation with the author*, Tell Abiyad, Syria, 2016.

The provisions entailed in the GPW aren't compatible with the general structure of the LPS. Art. 2 states that equality between men and women must be complete in every aspect «of public and private life». This specific equality requirement contradicts the root of the republican framework, which proclaims formal equality of men and women in the public sphere, but carves out – through the LPS – a family, “private” space where different rules apply. What is even more disruptive for the previous legal system, the GPW defines marriage a «civil contract», getting rid of any direct power of religious tenets in the legal realm (Art. 12). The parties to the civil contract, moreover, are granted equal rights to proceed to divorce (Art. 14). Art. 14 abolishes unilateral repudiation, and the woman is guaranteed possession or fair repayment of property, including jewelry, that she brought into marriage (Art. 29). The crime of adultery is punished equally (Art. 18) if committed by husband or wife.

For these reasons the text constitutes a revolution in relation to both Islamic and customary norms³⁸. In addition to prohibiting marriage with minors, consistently with the SC-AR (Art. 16), it guarantees «equality between men and women in work and wages» (Art. 8), as well as maternity leave for female workers up to their third child (Art. 28). The equal legal value of male and female testimony in court is also affirmed, differently from the LPS (Art. 9)³⁹. Art. 10 prohibits the marriage of women without their consent and Art. 11 abolishes the *mahr* (the Quranic allocation of money to the bride by the groom) as it would equate «the value of women» to that of a «material good over which possession is exercised». The *mahr* tradition, states the article, is to be replaced by an «equally shared marriage life». Art. 13 prohibits polygamy, which is allowed with limitations by Sharia and the LPS.

Art. 15 puts the rights of men and women on an equal footing in matters of inheritance, contrary to the Sharia tradition and the general dictate of the LPS. This is instead in line, as other GPW provisions, with the 2006 amendments concerning the Catholic minority. The so-called «honor killing» (femicide committed for adultery or other “indecent” conduct) is equated with the ordinary murder at Art. 17 of the GPW, reinstating on this matter the ordinary distinction between intentional or premeditated murder. This typology of crime, considered as to allow the strongest extenuating circumstances by the Syrian Criminal Code (Art. 192; 240-

38. N. Baassiri, *Women's Activist: Rojava Laws a Dream Turned Reality*, Syria Untold, March 25, 2017, available at: bit.ly/3zRX1PF (accessed February 7th, 2024).

39. E. van Eijk, *Family Law in Syria: A Plurality of Laws, Norms and Legal Practices*, Ph.D. Thesis, Leiden University Repository, 2013, p. 88.

242; 548), used to be punished through fewer years of imprisonment and possibly with barely a few months⁴⁰. Art. 548 of the republican Criminal Code had been amended in 2009 as follows: «He who catches his wife, sister, mother or daughter by surprise, engaging in an illegitimate sexual act and kills or injures them unintentionally must serve a minimum of two years in prison». Previously the same crime «benefited from a complete “exemption of penalty”» (Human Rights Watch 2009).

The protection of women victims of violence, and of pregnant detainees, is affirmed at Art. 19-21, 30 of the GPW along with that of children victims of trafficking. The right to maternal custody over children is extended by Art. 25 to the age of 15, after which the child has the right to choose his or her custodian from among his/her parents. Children are acknowledged protection and maintenance, at the same article, by both parents until the age of 18.

On April 2nd, 2016, the Legislative Council of the Cizire Canton in the newly proclaimed DFSN approved Amendments to the Syrian Criminal Code entitled: *Family related – Chapter III, In Crimes against Family and Public Morals* (CC-A). Art. 157 punishes anyone who concludes a marriage contract on behalf of a child under the age of 18 with imprisonment from three to seven years, including the guardian and anyone who was a party to the agreement. The text establishes prison and financial penalties for those who contravene the GPW: one to two years and 500,000 Syrian pounds for male polygamists and those who have contracted the marriage between the parties (Art. 158); three to seven years (and compensation proportionate to the woman’s economic condition) for those who contract a compensatory marriage, i.e. resulting from tribal disputes or feuds (Art. 161); one to two years for male adultery, if it is denounced or in *flagrante delicto* (Art. 162).

The law promulgated by the DFNS also punishes incest with one to three years, not less than two years if the perpetrator is the *wali*, i.e. the male guardian of the woman (Art. 164); seven years to life imprisonment for rape, not less than ten if the victim is under twelve years of age (Art. 165); nine years to life imprisonment for those who have sexual intercourse with minors under eighteen years of age (art. 166); three to twenty years for prostitution trafficking (Art. 168-169); three to fifteen years for anyone who kidnaps another person, not less than five if he/she is a minor (Art. 170); one to three years for anyone who «seduces a girl with a proposal of marriage and breaks her virginity» (Art. 171); not less than five years for anyone who causes a woman’s abortion without her consent, not less than

40. Ivi, pp. 121-122.

ten years if this results in the woman's death (Art. 174); from three years to life imprisonment and up to four million Syrian pounds for anyone who profits from trafficking of women or children (Art. 177).

Some articles of the new Code are striking in the nature of the crimes or penalties. Marriage contracted in the name of a daughter without her consent is punishable by imprisonment from one to three months or by penalties of up to one hundred thousand Syrian pounds, if the complaint is made before the marriage; from three months to one year and up to three hundred thousand pounds if the complaint is made after the marriage, no later than one year afterwards (Art. 159). The mild nature of these penalties is probably due to the deeply rooted customary nature of these behaviors. In fact, the LPS limits the power of the *wali* to decide on marriage without the woman's consent, but also the woman's power to decide whom to marry without the *wali*'s approval. Much of the decisive power is left by the LPS to the Sharia judge, a male by law. The ratio of the CC-A newly established penalties might be related to the fact that the prospect of very harsh punishments inflicted on the *wali* (often the woman's father), could make it for many women psychologically difficult to press charges.

The CC-A punishes, consistently with the Sharia tradition, unlawful sexual intercourse (e.g. not sanctioned by the marriage bond). Departing from traditional legal solutions, however, it stipulates the punishment in a prison sentence ranging from three months to one year, only if there is a complaint or in *flagrante delicto* (Art. 163). This sanction substitutes those provided for by the Quran (a hundred lashes, II: 24) or Sunna, contemplating even death by stoning⁴¹. Physical molestation or groping of men or women leads to imprisonment for three to six months (Art. 172). A similar penalty is provided for any man who manages, possibly in disguise, to enter places for women only (Art. 173).

7. Implementation of the provisions

The implementation of the GPW and the CC-A has encountered considerable difficulties since 2014. However, it also achieved results⁴². The revolutionary nature of the norms clashed with local customs,

41. Ṣaḥīḥ Muslim, XVII: 4194; see V. Hamzić, Z. Mir-Hosseini, *Control and Sexuality: The Revival of Zina Laws in Muslim Contexts*, London, Women Living Under Muslim Laws, 2010.

42. A. Benario, *Zum Verhältnis von Recht und Moral: Die Dialektik der Frauengesetze*

traditions, beliefs and personal interests, but attracted consensus by those who wished for reforms. Added to this scenario is the problem of the legitimacy of the AR as sources of law, which is denied by other institutions (*de jure* or *de facto*) involved in the Syrian conflict. This quest for legitimacy is entangled in a civil war with multiple direct international involvement⁴³. This is why it brought about multiple offensives perpetrated by state and non state actors against AANES institutions, notably by the Republic of Turkey in 2018 and 2019. Turkey has succeeded in taking away important territories from the confederal authorities striving to implement the GPW and the CC-A. Where ADANES judicial authorities can still proceed to enforce the new rules, a further obstacle is the poor technical formalization of the legal tools, primarily the GPW⁴⁴.

To date, the application of the GPW and, *a fortiori*, the CC-A, is only envisaged in three of the seven Regions into which ADANES is organized: Cizire (partly occupied by the SNA and Turkey since 2019), Euphrates (including the pre-existing Kobane Canton, partly occupied by SNA and Turkey since 2019) and Afrin (mostly occupied by SNA and Turkey since 2018). These are the three Kurdish-majority areas of Syria, called *Rojava* in Kurmancî. In the Turkish occupied territories of Rojava, autonomous institutions have been dismantled and there is therefore no chance to implement the GPW and the CC-A. In the remaining regions (Manbij, Al-Tabqa, Ar-Raqqa, Deir el-Zor) the GPW and the CC-A are not in force.

The administrative system of AANES/ADANES, created as of 2018 as a result of the inclusion of these last areas in territories controlled by the SDF, provides for a wide margin of legislative autonomy on the part of each Region. The legislative councils of Cizire, Euphrates and Afrin voted for the GPW, while this was not the case for the other four regions. This is due to two main reasons. The civil councils governing the Arab Regions aren't expression of the same social process as the legislative councils in Afrin, Euphrates and Cizire⁴⁵. They also do not

in Rojava, Kurdistan Report, 2017, available at: bit.ly/3jgrqAz (accessed February 7th, 2024).

43. H. Rasit, *Competing revolutionaries: Legitimacy and leadership in revolutionary situations*, in *The British Journal of Sociology*, vol. 72, n. 4, 2021, pp. 1092-1112.

44. H. Sharine, Judge of Amude's Tribunal (DFNS), *Interview*, Amude, Syria, March 2016.

45. W. Van Wilgenburg, *Struggle against ISIS and the integration of Arab territories in the autonomous Administration*, in *The Autonomous Administration of North and East Syria between a rock and a hard place*, Transnational Press 2020, pp. 97-116.

have the same socio-political composition as those organs. The civil councils of the Arab Regions are bodies instituted in exile while those regions were under the control of IS. They were created by dissidents from the Salafi government and by sympathizers with the model of self-government proposed by the TEV-DEM and the Kongra Star. Once these bodies took over the provisional civilian government of the newly liberated areas, they involved representatives of local kinship structures interested in sharing the tasks of the new administration⁴⁶. This makes these bodies less democratic than those in Rojava. The Rojava councils are not based solely on cooptation, rather on a process of popular participation and delegation by discussion and vote that has lasted for years⁴⁷. Moreover, the newly established Civil Councils of the Arab Regions came to be quite dependent on tribal structures grounded on a rigid patriarchal culture.

Neither the linguistic or ethnic cleavages, nor religious allegiances are decisive to this political divide. Patriarchal kinship structures (*qabīla* and *aşiret*) are influential among Kurds as much as Arabs in North and East Syria. Kurds in the Cizire and Euphrates Regions follow the Shafi school of law, no less rigid in matters of personal status than the Hanafi school marking the LPS, prevalent among Arab Islamic believers in those regions, and among Kurds in Afrin and Aleppo⁴⁸. The linguistic divide is not relevant here. What makes the decisive difference between the Kurdish and Arab communities of Syria is the social, educational and propaganda work of the PKK in the 20th century, and the PYD's in the 21st⁴⁹. These organizations are strongly committed to spreading the idea that women's autonomy and leadership is at the heart of the original Mesopotamian culture, largely denied and marginalized by various forms of colonialism, including those imposed in the name of Islam⁵⁰. The Arab regions of AANES weren't affected by such an ideological work among the population.

46. Rojava Information Center, 2021, *Beyond Rojava. North and East Syria's Arab Regions*, June 2021, available at: bit.ly/3mLjV82 (accessed February 7th, 2024); see also E. Ayboga, A. Flach, M. Knapp, *Revolution in Rojava*, cit., pp. 54-60, 154-163.

47. D. Grasso, *The People's Communes in Rojava and North-Eastern Syria*, cit., pp. 112 ff.

48. J. Lamce, *Marriage Requirements in the Classic Doctrine of the Islamic Sunni Schools*, in *Academic Journal of Interdisciplinary Studies*, 3: 1, March 2014.

49. T. Shmidinger, *Rojava. Revolution, War, and the Future of Syria's Kurds*, cit., pp. 74-85.

50. A. Öcalan, *Liberating Life: the Women's Revolution*, International Initiative Edition and Mesopotamian Publishers 2013.

That doesn't mean that groups of Arab women didn't implement steps to self-organize in AANES. To date, among the Arab cities of AANES, Women's Houses and Kongra Star activities are allegedly most advanced in the city of Ar-Raqqa⁵¹.

The acceptance of the GPW has been greater in the Cizire and Euphrates Regions, where it is in force. A very few families are voluntarily complying with it in Manbij, Ar-Raqqa or Deir el-Zor, where its application is only recommended by the ADANES and Kongra Star. In these areas, Kongra Star carries out house-to-house awareness-raising work to make the existence of this legal instrument known to women who would like to advocate for its use⁵². Given the non-compulsory nature of compliance with the GPW, the intention is there to motivate women to bring their fathers and husbands, in the event of controversy, before the reconciliation commissions of the Women's Houses, which in any case attempt to produce a mutually favorable mediation inspired at the GPW. This model is also applied in Rojava, where the Communes and Women's Houses favor consensual family paths, mostly avoiding coercion⁵³.

51. Rojava Information Center, *Beyond Rojava*, cit.

52. H. Viyan, Militant of the Kongra Star, *Personal conversation*, Qamishlo, Syria, September 2016; Anf News, *Die Frauengesetze der Autonomieverwaltung von Nord- und Ostsyrien*, Anf Deutsch, June 19, 2021, available at: bit.ly/3f5ydM8 (accessed February 7th, 2024). J. Wartmann (*Negotiating what it means to be "free": gender equality and governance in North and East Syria*, in *International Feminist Journal of Politics*, 1-22, 2023) correctly highlights that these activities, undertaken by Kongra Star, take place in opposition to – or to the detriment of – convictions of those women, who do not approve of the content of the proposed reforms. This qualifies, however, a revolutionary process as such: a phase of patent social discord, without which existing or traditional social hierarchies could hardly be challenged.

53. O. Horo, H. Hêbun, *Ciban Xidro: Das Frauengesetz Muss Umgesetzt Werden*, Anha News, July 14, 2021, available at: bit.ly/37ejYQt (accessed February 7th, 2024); see also Y. Duman, *Peacebuilding in a Conflict Setting*, in *Journal of Peacebuilding & Development*, 12: 1, pp. 85-90, April 2017. It seemingly still exists a distinction, in the Women's Houses' judicial practice, between conciliation committees following disputes within Muslim families and those performing the same tasks for Christian couples and families. In principle, this subdivision would be at odds with the uniformity inspiring the GPW, though it does not contradict its literal dictate. Future research should ascertain to what extent this practice is the result of an additional element of pragmatic arrangement with existing social divides or, at the contrary, of an explicit ideological orientation. In the first case, the concrete distances between social groups and the inclination to implement the spirit of the new law gradually could be construed as decisive. In the second case the conviction might be relevant, that residual judicial pluralism (no longer referring to religious courts, nor to a legal dictate of divine derivation) does not conflict with the protection of the general interests of women and minors. On the intersection of "social segments" interests

Opposition to these laws and implementation practices has taken on a political and even violent guise. Some of the public demonstrations against the AANES, in recent years, had policies on women and family as their focus, as well as the modification of school curricula (especially the introduction of Jineolojî, the Women's Science proposed by Kongra Star)⁵⁴. Such demonstrations have often called for the return of AANES territories under Baath control. These oppositional sectors of the population have continued to marry, live and divorce according to the dictates of the LPS or to customary law, ignoring the new rules as much as they have been able to. This attitude is all the more radical among individuals or families close to Islamist groups such as the SNA, HTS or IS.

IS clandestine cells militarily attack civilian and personnel of the ADANES, or tribal leaders involved in the Civil Councils, on a daily basis. The SNA has been conducting offensives since 2017 against AANES with direct Turkish support. As a result, almost the entire Afrin Region (with the exception of the Tell-Rifaat area), as well as the areas of Tell Abyad in the Euphrates Region and Ras al-Ain/Serekaniye in the Cizire Region, are under the de facto authority of the SIG, for which SNA groups carry out military policing duties⁵⁵. In these areas all Women's Houses and confederal institutions have been disbanded, and the GPW banned. There paramilitary groups re-institute Sharia courts applying legal solutions that do not conform to the LPS, as IS has done in the territories under its control. Such solutions can be Hanbalite (IS, SG, SIG) or framed in the Hanafi tradition, possibly deprived of secular adjustments entailed in the post-independence LPS formulation (SIG).

and those of “communities” see D. Grasso, *Gender Equality or Legal Pluralism? An Ostensible Puzzle in Syrian Rojava's Legal System*, in *Syrian Studies Association Bulletin*, 2, 2021.

54. H. Zilan, Member of Kongra Star (DFNS), *Interview*, Qamishlo, Syria, November 2017; see also P. Dinç, *The content of school textbooks in (nation) states and “stateless autonomies”: A comparison of Turkey and the Autonomous Administration of North and East Syria (Rojava)*, *Nations and Nationalism*, 26: 4, 2020; A. Boyle Espinosa, A. Ronan, *Rojava's “war of education”: the role of education in building a revolutionary political community in North and East Syria*, in *Third World Quarterly*, 44: 2, 2023, pp. 1-19. On Jineolojî see Institute Andrea Wolf, *Mujer, Vida y Libertad: Desde el corazón del movimiento de mujeres libres del Kurdistan*, Descontrol Editorial i Imprenta 2020.

55. L. Radpey, *Assessing International Law on Self-Determination and Extraterritorial Use of Force in Rojava*, *Lawfare*, November 13, 2020, available at: [bit.ly/3zW9vpr](https://www.lawfarejournal.org/2020/11/13/rojava/) (accessed February 7th, 2024).

8. Conclusions

On 22 June 2019, a Document of Understanding between the representatives of the seven AANES Regions was approved by the general Legislative Council. It was a legal document formally listing provisional principles and procedures of AANES, pending agreement on the contents of a new Social Contract⁵⁶. Although Art. 31 of the Document of Understanding states that «all individuals are equal before the law and there shall be no discrimination between citizens on the grounds of nationality, religion, creed, origin, social status, sex or color», the word «women» appears only in one instance throughout the document, at Art. 5: «The Women’s Authority shall organize itself and form its committees as required». The renewed Social Contract, approved in 2023, does contain and reinforce, as stated earlier, provisions on women’s rights and the autonomy of women that were present in the 2014 and 2016 laws. Nevertheless, the fact that its promulgation had been announced several times starting 2021, and never took place until late 2023, testifies to the political tensions within the AANES/ADANES, especially between Kongra Star and Pyd militants, on one side, and representatives of several influential tribal groups on the other⁵⁷.

Since 2021, a detailed draft codification of Family law has circulated, entitled *Amendments to the Women’s Law* (GPW-A). This text, which some activists in the Judicial Council call the “Civil Code of Women” (as to distinguish it from the CC-A)⁵⁸, consists of forty-two articles. It exhibits traits of legal comprehensiveness and technical sophistication far greater than the GPW. Interestingly, while sticking on the Sharia legal formulation style, it enhances to the extreme women’s powers in the family, strengthening all along children’s interests vis-à-vis paternal authority. The text has been ever since lying, awaiting approval, at the AANES and ADANES Legislative Councils.

According to the co-Chairwoman of this body, Rima Barakat, the difficulties in approving the GPW-A stem, again, from the opposition of tribal representatives from Manbij and Deir el-Zor, who threatened

56. General Council of the Autonomous Administration of North-Eastern Syria, *Document of Understanding*, Unreleased Document, June 22nd, 2019.

57. Rojava Information Center, 2021, *The AANES has announced that NES-wide elections will be held after the renewal of the social contract*, Twitter, June 14, 2021, available at: bit.ly/3xaPSrL (accessed February 7th, 2024).

58. A. Pasha, Member of the Justice Council of the Cizire Region (AANES), *Interview*, Online, June 2021.

to withdraw support to the Council itself (and AANES or ADANES as a whole) if the GPW-A is approved⁵⁹. In areas under Turkish or Baathist siege, where tribal alliances can be decisive for military developments, this is an existential threat to the entire confederal revolution⁶⁰. This circumstance underlies the centrality of Family law in the political and social conflicts of contemporary Syria. Women's bodies, power and autonomous political action trigger changes with great social and political implications. They end up in being one of the unacknowledged roots of social crisis resulting in geopolitical ones, with tremendous domestic, international, legal and military impact.

59. R. Barakat, Co-President of the Legislative Council (AANES), *Interview*, December 2021.

60. I. Orkan, Chair of Ufficio d'Informazione del Kurdistan in Italia – Uiki Onlus, *Interview*, Online, May 2021; J. Szuba, *Alliance between SDF and Syrian regime is "very far away", senior Kurdish official Salih Muslim says*, The Defence Post, February 18, 2019, available at: bit.ly/3xbH70M (accessed February 7th, 2024).